



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 12/02/2009 (Per: RCT)

Compile Draft – Appendix G

has been copied/added to the drafting file for

2009 LRB-3883

- | | |
|--|--|
| A ☞ The <u>2009</u> drafting file for
LRB-2389/P4 | J ☞ The <u>2009</u> drafting file for
LRB-2707/2 |
| B ☞ The <u>2009</u> drafting file for
LRB-3880/P2 | K ☞ The <u>2009</u> drafting file for
LRB-2724/P6 |
| C ☞ The <u>2009</u> drafting file for
LRB-3548/P2 | L ☞ The <u>2009</u> drafting file for
LRB-3227/2 |
| D ☞ The <u>2009</u> drafting file for
LRB-3549/P2 | M ☞ The <u>2009</u> drafting file for
LRB-3192/P4 |
| E ☞ The <u>2009</u> drafting file for
LRB-3306/P2 | N ☞ The <u>2009</u> drafting file for
LRB-3098/P2 |
| F ☞ The <u>2009</u> drafting file for
LRB-3772/P2 | O ☞ The <u>2009</u> drafting file for
LRB-2616/P3 |
| G ☞ The <u>2009</u> drafting file for
LRB-2747/P3 | P ☞ The <u>2009</u> drafting file for
LRB-2434/P3 |
| H ☞ The <u>2009</u> drafting file for
LRB-2384/P4 | Q ☞ The <u>2009</u> drafting file for
LRB-3301/P2 |
| I ☞ The <u>2009</u> drafting file for
LRB-2541/2 | |

Object Name	Order	Drafter	Leg Topic
09-2389/P4	1	btradewe	Greenhouse gas emission reduction goals
09-3880/P1	2	mkunkel	PSC minicompile
09-3548/P2	3	btradewe	California vehicle emission standards
09-3549/P2	4	btradewe	Low carbon fuel standard
09-3306/P2	5	btradewe	Energy efficient communities
09-3772/P2	6	agary	Energy efficient communities; planning methodology
09-2747/P3	7	agary	Carbon audited transportation investment, item 36
09-2384/P4	8	agary	Freight truck idling reduction; global warming task force recommendation
09-2541/2	9	rkite	Building code requirements for energy conservation and green building
09-2707/2	10	csundber	Appliance efficiency standards
09-2724/P6	11	jkuesel	Energy usage by state agencies
09-3227/2	12	mshovers	Exclude costs of energy efficiency and renewable energy projects from local levy limits
09-3192/P4	13	tkuczens	Energy Crop Reserve Program
09-3098/P2	14	btradewe	Forest management and greenhouse gases
09-2616/P3	15	btradewe	Environmental permitting incentives for greenhouse gas emission reductions
09-2434/P3	16	tkuczens	Industrial efficiency incentives - industrial development bonds
09-3301/P2	17	btradewe	Report concerning greenhouse gas cap and trade program

Compile List
for - 3882

2009 DRAFTING REQUEST**Bill**Received: **04/21/2009**Received By: **agary**Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - IND**By/Representing: **Larry Konopacki**This file may be shown to any legislator: **NO**Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - highways
Transportation - other**Extra Copies: **EVM, RCT**Submit via email: **YES**Requester's email: **larry.konopacki@legis.wisconsin.gov**Carbon copy (CC:) to: **David.Lovell@legis.wisconsin.gov
john.stolzenberg@legis.wisconsin.gov****aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Carbon audited transportation investment, item 36

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			S&L
/P1	agary 05/12/2009	kfollett 05/18/2009	rschluet 05/18/2009	_____	mbarman 05/18/2009		S&L
	agary 06/06/2009	kfollett 06/07/2009		_____			

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P2			jfrantze _____ 06/08/2009 _____		mbarman _____ 06/08/2009 _____		S&L
/P3	agary 11/05/2009	jdyer 11/06/2009	mduchek _____ 11/06/2009 _____		cduerst 11/06/2009		

FE Sent For:

<END>

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/?		P3 11/6 jld	MD	JK			S&L
/P1	agary	kfollett	rschluet		mbarman		S&L
	05/12/2009	05/18/2009	05/18/2009		05/18/2009		
	agary	kfollett					
	06/06/2009	06/07/2009					

LRB-2747

06/08/2009 08:51:47 AM

Page 2

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/P2

jfrantze	_____
06/08/2009	_____

mbarman
06/08/2009

FE Sent For:

<END>

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See attached

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							S&L
/P1	agary 05/12/2009	kfollett 05/18/2009	rschluet 05/18/2009		mbarman 05/18/2009		

FE Sent For:

1P2kf 76 6/8
6/7

2009 DRAFTING REQUEST

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Wanted: **As time permits**

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Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - highways
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Extra Copies: **EVM, RCT**

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john.stolzenberg@legis.wisconsin.gov**

aaron.gary@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

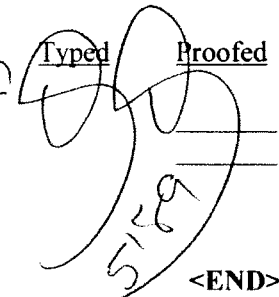
Topic:

Carbon audited transportation investment, item 36

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary	1P/15f 5/18					

FE Sent For:

<END>

CLIMATE CHANGE DRAFTING INSTRUCTIONS

Date: 4/01/09; revised 4/14/09

Policy Name: Carbon-audited transportation investment

Item number and page in report: # 36, p. 147

Request: New draft

LC Contact: Larry Konopacki

State agency: DOT, DNR

Summary and Background:

DOT This proposal amends the Wisconsin Environmental Policy Act, s. 1.11, Stats. (WEPA), to specifically require consideration of the relative GHG emissions and energy use associated with transportation infrastructure projects for which an environmental assessment (EA) or environmental impact statement (EIS) is prepared. The proposal also requires ~~DNR~~ DOT to determine a monetary value for GHG emissions and energy use for DOT to use in performing cost-benefit analyses of transportation project options.

Under WEPA, agencies of the state are required to consider whether their activities constitute "major actions significantly affecting the quality of the human environment" (major action). In addition to projects in which an agency is directly involved, this requirement can apply to projects in which an agency is indirectly involved by providing funding, issuing regulatory decisions, or in other capacities.

DOT has determined that WEPA requires it to consider "pertinent environmental factors consequential to any proposed action." [s. Trans 400.06 (1), Wis. Adm. Code.] It appears that DOT is not currently interpreting this to require consideration of GHG emission or energy use related to the action, thus giving rise to this proposal.

Like other state agencies, DOT has determined that some types of projects that are not major actions are eligible for categorical exclusions from more involved environmental analyses. These types of projects only undergo programmatic review, which may involve a relatively simple environmental report (ER). No EA or EIS is prepared for these projects, and thus the requirements created under this proposal would not apply to these projects. Examples of these types of projects can be found in s. Trans. 400.08 (1) (c) and (d), Wis. Adm. Code.

For a project that is not eligible for a categorical exclusion, an EA may be prepared to determine if the project is a major action. If so, an EIS is prepared for the project. Other projects are considered major actions by rule, automatically requiring EIS preparation.

ch. 84 or ch. 85
/

Similarly, DOT reports that under the National Environmental Policy Act (NEPA), 42 U.S.C. s. 4321 *et seq.*, some projects determined by Congress to have only minor environmental impacts are categorically excluded from the NEPA environmental analysis requirements. For these projects, only the relatively simple ER is required. For other projects, an EA is conducted to determine the scope of the environmental impacts, and an EIS is prepared for projects in which the EA finds that the project will result in a significant environmental impact. A separate EIS is not required to be prepared under WEPA if an EIS that satisfies the WEPA requirements is prepared under NEPA.

According to the final report of the Governor's Task Force on Global Warming, the intent of this proposal is to inform and promote energy-effective transportation infrastructure choices. The report does not recommend a requirement for transportation projects to be chosen based on relative lifecycle GHG emissions or relative GHG-related cost.

Definition of "greenhouse gas" = s. 299.03(1)(d)
(from 09-2389)

Instructions:

- I. For any transportation infrastructure project for which state funding or funding from other sources allocated by DOT will be used, require any EIS prepared under s. 1.11 (2) (c) or EA that is prepared to determine whether the project constitutes a major action significantly affecting the human environment under s. 1.11 (2) (c) to include an audit of the GHG emissions and energy use that will result over the lifecycle of the project, and that will result over the lifecycle of any alternatives to the project that are evaluated. Require DOT to convene a technical advisory council, in consultation with the DNR, to make recommendations to the DOT on the factors to be considered and the methodology to be used to conduct these audits.

NOTE: The EA threshold for application of this requirement is based on a conversation with Steve Hiniker, Co-Chair of the Task Force's Transportation Work Group, about the intent of the group.

II. Audits under Part I. should include:

A. Information on emissions and energy use resulting from:

1. Mode of transportation chosen.
2. Materials chosen.
3. Project construction methods.
4. Maintenance of improvements.
5. Use of the improvements for transportation purposes, including predicted VMT and predicted congestion.
6. Other pertinent factors.

- III. Direct DOT to include evaluations of relative GHG emissions and energy use in identifying, prioritizing, evaluating, or assessing transportation facility or service needs for the statewide system, as part of the environmental evaluation in the current system plan for the statewide transportation system for 2030 and in future drafts or revisions of this plan. If DOT completes the 2030 plan before the effective date of this provision, require DOT to revise the 2030 plan with this evaluation.

NOTE: DOT reports that it is required to periodically update its statewide "system plan" as a condition of receiving federal transportation funding.

- IV. Require the technical advisory council created under Part I. To make recommendations to DOT on setting a monetary value for GHG emissions and energy use, based on factors such as social costs, market rates for carbon credits, and energy costs. Direct DOT to draft rules setting a monetary value for GHG emissions and energy use identified in transportation project GHG and energy use audits under Part I. Direct DOT to include the associated monetary value related to a transportation project in performing any cost-benefit analysis of transportation project options.
- V. Require DOT to submit proposed rules necessary to give effect to these instructions to the Legislative Council staff under s. 227.15 (1), Stats., no later than the first day of the 18th month beginning after the effective date of this provision.



State of Wisconsin
2009 - 2010 LEGISLATURE

5000

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5/12

LRB-2747/P1

ARG...

off

1-Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen

- 1 AN ACT ...; relating to: environmental evaluations for transportation projects
- 2 and granting rule-making authority.

Analysis by the Legislative Reference Bureau

ENVIRONMENTAL EVALUATIONS FOR TRANSPORTATION PROJECTS

This bill requires the Department of Transportation (DOT), in preparing an environmental assessment or environmental impact statement for a transportation project, to include an evaluation of the greenhouse gas emissions and energy use that will result from the project (emission and energy evaluation). If DOT is also considering any alternative to the project, DOT must prepare an emission and energy evaluation for each alternative. In performing any cost-benefit analysis related to a project for which an emission and energy evaluation is required, DOT must consider the monetary value of the greenhouse gas emissions and energy use that will result from the project, calculated according to rules that DOT is required under the bill to promulgate. The bill specifies certain factors that must be considered in any emission and energy evaluation. The bill also requires DOT, in consultation with the Department of Natural Resources, to appoint a technical advisory committee to make recommendations to DOT on: the factors to be considered, and the methodology to be used, in preparing emission and energy evaluations; and setting a monetary value for greenhouse gas emissions and energy use.

The bill also requires DOT, as part of its statewide long-range multimodal transportation plan for the 20-year period ending in 2030 (Connections 2030 plan), to consider greenhouse gas emissions and energy use in identifying,

prioritizing, evaluating, or assessing transportation facility or service needs for the statewide transportation system. DOT must continue to include these considerations in any revision, modification, or update of the Connections 2030 plan and in any other statewide long-range multimodal transportation plan.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 85.021 of the statutes is created to read:

2 **85.021 Environmental evaluations for transportation projects.** (1) In
3 this section:

4 (a) "Environmental assessment" means an analysis of a proposed action to
5 determine whether the proposed action constitutes a major action significantly
6 affecting the human environment under s. 1.11 (2) (c).

7 (b) "Environmental impact statement" means a detailed statement required
8 under s. 1.11 (2) (c).

9 (c) "Greenhouse gas" means carbon dioxide, methane, nitrous oxide, sulphur
10 hexafluoride, nitrogen trifluoride, a hydrofluorocarbon, a perfluorocarbon, or any
11 other gas identified by the department of natural resources under s. 299.03 (4).

12 (d) "Transportation project" means any construction, reconstruction,
13 rehabilitation, or other improvement of infrastructure related to any mode of
14 transportation, funded in whole or in part from any appropriation to the department
15 under s. 20.395 or 20.866 (2).

16 (e) "2030 plan" means the department's statewide long-range multimodal
17 transportation plan for the 20-year period ending in 2030.

18 (2) (a) If the department prepares an environmental assessment or
19 environmental impact statement for a transportation project, the environmental

assessment or environmental impact statement shall include an evaluation of all of the following:

1. The greenhouse gas emissions and energy use that will result from the transportation project, over the life cycle of the project.

2. If any other transportation project that is an alternative to the transportation project under subd. 1. is being considered, the greenhouse gas emissions and energy use that will result from each alternative project, over the life cycle of the alternative project.

(b) Any evaluation required under par. (a) shall take into consideration all of the following relating to the project:

1. Transportation mode.

2. Project materials.

3. Project construction methods.

4. Maintenance requirements.

5. Transportation use derived from the project, including predicted vehicle miles traveled and predicted congestion, if applicable.

6. Other pertinent factors.

(c) In performing any cost-benefit analysis related to a transportation project for which an evaluation is required under par. (a), the department shall consider the monetary value of the greenhouse gas emissions and energy use that will result from the transportation project, calculated according to the rules promulgated under sub.

(4).

(3) As part of the environmental evaluation in the department's 2030 plan, the department shall consider greenhouse gas emissions and energy use in identifying, prioritizing, evaluating, or assessing transportation facility or service needs for the

✓
1 statewide transportation system. In any revision, modification, or update of the 2030
2 plan, and in any other statewide long-range multimodal transportation plan of the
3 department, the department shall consider greenhouse gas emissions and energy
4 use in identifying, prioritizing, evaluating, or assessing transportation facility or
5 service needs for the statewide transportation system.

6 (4) The department shall promulgate rules for calculating the monetary value
7 of the greenhouse gas emissions and energy use that will result from transportation
8 projects, over the life cycle of the projects, to be used in performing cost-benefit
9 analyses of transportation project options.

10 **SECTION 9150. Nonstatutory provisions; Transportation.**

11 (1) ADVISORY COMMITTEE.

12 (a) The department of transportation, in consultation with the department of
13 natural resources, shall appoint a technical advisory committee under sections 15.04
14 (1) (c) and 227.13 of the statutes to make recommendations to the department of
15 transportation on the factors to be considered, and the methodology to be used, in
16 preparing evaluations required under section 85.021 (2) (a) of the statutes, as created
17 by this act. These evaluations shall take into consideration all of the factors specified
18 in section 85.021 (2) (b) of the statutes, as created by this act.

19 (b) The technical advisory council shall make recommendations to the
20 department of transportation on setting a monetary value for greenhouse gas
21 emissions and energy use, based on factors such as social costs, market rates for
22 carbon credits, and energy costs.

23 (2) 2030 PLAN. If the department of transportation completes its final 2030 plan,
24 as defined in section 85.021 (1) (e) of the statutes, as created by this act, prior to the
25 effective date of this subsection, the department shall revise the final 2030 plan to

1 incorporate the requirement specified in section 85.021 (3) of the statutes, as created
2 by this act.

3 (3) RULES RELATING TO TRANSPORTATION PROJECTS. The department of
4 transportation shall submit in proposed form the rules required under section 85.021
5 (4) of the statutes, as created by this act, to the legislative council staff under section
6 227.15 (1) of the statutes no later than the first day of the 18th month beginning after
7 the effective date of this paragraph. subsection

8 **SECTION 9350. Initial applicability; Transportation.**

9 (1) The treatment of section 85.021 (2) (a) and (b) of the statutes first applies
10 to environmental assessments and environmental impact statements commenced on
11 the effective date of this subsection.

12 (END)

D-note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2747/P1.dn
ARG: *gf*

Date

Please review the attached draft carefully to ensure that it is consistent with your intent.

The definition of greenhouse gas is derived from 2009 LRB-2389. The definitions of environmental assessment and environmental impact statement are derived from s. 13.489 (1c) (a) and (b), stats. ✓

In this draft, I have used the term "advisory committee" in lieu of "advisory council" because the function of this body seems to be of limited duration. See s. 15.01 (3) and (4), stats. ✓

X The attached draft does not include a delayed effective date. It is unclear to me how the timing of each of the provisions will work. For example, the cost-benefit analysis is to be made based in part on a methodology established by rule, but the rules are not required to be submitted to the Legislative Council staff for approximately a year and a half and the instructions called for no delayed effective date for the bill. See created s. 85.021 (2) (c) and (4) and bill section 9150 (3). *to*

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2747/P1dn
ARG:kjfrs

May 18, 2009

Please review the attached draft carefully to ensure that it is consistent with your intent.

The definition of greenhouse gas is derived from 2009 LRB-2389. The definitions of environmental assessment and environmental impact statement are derived from s. 13.489 (1c) (a) and (b), stats.

In this draft, I have used the term "advisory committee" in lieu of "advisory council" because the function of this body seems to be of limited duration. See s. 15.01 (3) and (4), stats.

The attached draft does not include a delayed effective date. It is unclear to me how the timing of each of the provisions will work. For example, the cost-benefit analysis is to be made based in part on a methodology established by rule, but the rules are not required to be submitted to the Legislative Council staff for approximately a year and a half and the instructions called for no delayed effective date for the bill. See created s. 85.021 (2) (c) and (4) and bill section 9150 (3).

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

Gary, Aaron

From: Konopacki, Larry
Sent: Friday, June 05, 2009 12:11 PM
To: Gary, Aaron
Cc: Lovell, David; Stolzenberg, John
Subject: RE: Draft review: LRB 09-2747/P1 Topic: Carbon audited transportation investment, item 36

This sounds like it will work well. Thank you for your efforts on this.

Larry

Larry A. Konopacki
Wisconsin Legislative Council
(608) 267-0683
larry.konopacki@legis.wisconsin.gov

-----Original Message-----

From: Gary, Aaron
Sent: Friday, June 05, 2009 11:56 AM
To: Konopacki, Larry
Cc: Lovell, David; Stolzenberg, John
Subject: RE: Draft review: LRB 09-2747/P1 Topic: Carbon audited transportation investment, item 36

Larry,

The problem with having different effective dates for different provisions is that most of them tie together. For example, bill section 9150 (1) would become effective immediately, but would cross-reference a provision that, when it becomes effective, doesn't exist (85.021 (2)). I talked to my supervisor (Becky, the co-drafter) and she recommended simply using an in-text applicability. Doing this would involve the following changes:

1. Taking out the initial app in the draft.
2. At p. 2, line 18, beginning that sentence with: (a) Beginning with environmental assessments and environmental impact statements commenced on the first day of the 24th month beginning after the effective date of this paragraph ... [LRB inserts date], if the department

Because of the way pars. (b) and (c) tie into par. (a) in created s. 85.021, I don't think any other change would be needed there, and no new effective date provision would be needed either.

Let me know if this approach is OK.

Thanks. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

-----Original Message-----

From: Konopacki, Larry
Sent: Thursday, June 04, 2009 4:43 PM
To: Gary, Aaron
Cc: Lovell, David; Stolzenberg, John
Subject: RE: Draft review: LRB 09-2747/P1 Topic: Carbon audited transportation investment, item 36

Hi Aaron, I would anticipate s. 85.021 (1), (3), and (4) and all of Section 9150 becoming effective immediately, and s. 85.021 (2) becoming effective 24 months after the effective date.

Please John Stolzenberg or I know if you have any questions or need anything else.

Thanks,

Larry

Larry A. Konopacki
Wisconsin Legislative Council
(608) 267-0683
larry.konopacki@legis.wisconsin.gov

-----Original Message-----

From: Gary, Aaron
Sent: Wednesday, June 03, 2009 4:19 PM
To: Konopacki, Larry
Cc: Lovell, David; Stolzenberg, John
Subject: RE: Draft review: LRB 09-2747/P1 Topic: Carbon audited transportation investment, item 36

Hi Larry,

I am trying to figure out how the timing of all of these provisions will work. Correct me if this is wrong:

1. Section 9150 (1) and (3) will become effective immediately. (DOT will form the advisory committee and start working on the rules now, but the rules won't have to be submitted for roughly 18 months.) 2. Section 85.021 and section 9150 (2) will become effective in approximately 24 months.

Thanks. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

-----Original Message-----

From: Konopacki, Larry
Sent: Wednesday, June 03, 2009 10:06 AM
To: Gary, Aaron
Cc: Lovell, David; Stolzenberg, John
Subject: FW: Draft review: LRB 09-2747/P1 Topic: Carbon audited transportation investment, item 36

Hi Aaron,

Please do add a delayed effective date to the draft of 6 months later than the deadline for rules submission to Leg. Council.

Also, please add a requirement that the department consult with the advisory committee during the rulemaking process.

Apparently the Climate Change working group is only drafting bills to the /P stage right now, so please make these changes into a /P2 draft.

Thanks Aaron!

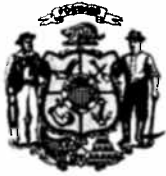
Larry

Larry A. Konopacki
Wisconsin Legislative Council
(608) 267-0683
larry.konopacki@legis.wisconsin.gov

-----Original Message-----

From: Barman, Mike
Sent: Monday, May 18, 2009 1:11 PM
To: Konopacki, Larry
Subject: Draft review: LRB 09-2747/P1 Topic: Carbon audited transportation investment,
item 36

Following is the PDF version of draft LRB 09-2747/P1 and drafter's note.



State of Wisconsin
2009 - 2010 LEGISLATURE

in
6/6

LRB-2747/PZ

ARG:kjfrs

(RMA)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

- 1 **AN ACT to create** 85.021 of the statutes; **relating to:** environmental evaluations
2 for transportation projects and granting rule-making authority.

Analysis by the Legislative Reference Bureau

ENVIRONMENTAL EVALUATIONS FOR TRANSPORTATION PROJECTS

This bill requires the Department of Transportation (DOT), in preparing an environmental assessment or environmental impact statement for a transportation project, to include an evaluation of the greenhouse gas emissions and energy use that will result from the project (emission and energy evaluation). If DOT is also considering any alternative to the project, DOT must prepare an emission and energy evaluation for each alternative. In performing any cost-benefit analysis related to a project for which an emission and energy evaluation is required, DOT must consider the monetary value of the greenhouse gas emissions and energy use that will result from the project, calculated according to rules that DOT is required under the bill to promulgate. The bill specifies certain factors that must be considered in any emission and energy evaluation. The bill also requires DOT, in consultation with the Department of Natural Resources, to appoint a technical advisory committee to make recommendations to DOT on: the factors to be considered, and the methodology to be used, in preparing emission and energy evaluations; and setting a monetary value for greenhouse gas emissions and energy use.

The bill also requires DOT, as part of its statewide long-range multimodal transportation plan for the 20-year period ending in 2030 (Connections 2030 plan), to consider greenhouse gas emissions and energy use in identifying,

prioritizing, evaluating, or assessing transportation facility or service needs for the statewide transportation system. DOT must continue to include these considerations in any revision, modification, or update of the Connections 2030 plan and in any other statewide long-range multimodal transportation plan.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 85.021 of the statutes is created to read:

2 **85.021 Environmental evaluations for transportation projects.** (1) In
3 this section:

4 (a) "Environmental assessment" means an analysis of a proposed action to
5 determine whether the proposed action constitutes a major action significantly
6 affecting the human environment under s. 1.11 (2) (c).

7 (b) "Environmental impact statement" means a detailed statement required
8 under s. 1.11 (2) (c).

9 (c) "Greenhouse gas" means carbon dioxide, methane, nitrous oxide, sulphur
10 hexafluoride, nitrogen trifluoride, a hydrofluorocarbon, a perfluorocarbon, or any
11 other gas identified by the department of natural resources under s. 299.03 (4).

12 (d) "Transportation project" means any construction, reconstruction,
13 rehabilitation, or other improvement of infrastructure related to any mode of
14 transportation, funded in whole or in part from any appropriation to the department
15 under s. 20.395 or 20.866 (2).

16 (e) "2030 plan" means the department's statewide long-range multimodal
17 transportation plan for the 20-year period ending in 2030.

Insert
2-18

18 (2) (a) *If* the department prepares an environmental assessment or
19 environmental impact statement for a transportation project, the environmental

1 assessment or environmental impact statement shall include an evaluation of all of
2 the following:

3 1. The greenhouse gas emissions and energy use that will result from the
4 transportation project, over the life cycle of the project.

5 2. If any other transportation project that is an alternative to the
6 transportation project under subd. 1. is being considered, the greenhouse gas
7 emissions and energy use that will result from each alternative project, over the life
8 cycle of the alternative project.

9 (b) Any evaluation required under par. (a) shall take into consideration all of
10 the following relating to the project:

11 1. Transportation mode.

12 2. Project materials.

13 3. Project construction methods.

14 4. Maintenance requirements.

15 5. Transportation use derived from the project, including predicted vehicle
16 miles traveled and predicted congestion, if applicable.

17 6. Other pertinent factors.

18 (c) In performing any cost-benefit analysis related to a transportation project
19 for which an evaluation is required under par. (a), the department shall consider the
20 monetary value of the greenhouse gas emissions and energy use that will result from
21 the transportation project, calculated according to the rules promulgated under sub.

22 (4).

23 (3) As part of the environmental evaluation in the department's 2030 plan, the
24 department shall consider greenhouse gas emissions and energy use in identifying,
25 prioritizing, evaluating, or assessing transportation facility or service needs for the

1 statewide transportation system. In any revision, modification, or update of the 2030
2 plan, and in any other statewide long-range multimodal transportation plan of the
3 department, the department shall consider greenhouse gas emissions and energy
4 use in identifying, prioritizing, evaluating, or assessing transportation facility or
5 service needs for the statewide transportation system.

6 (4) The department shall promulgate rules for calculating the monetary value
7 of the greenhouse gas emissions and energy use that will result from transportation
8 projects, over the life cycle of the projects, to be used in performing cost-benefit
9 analyses of transportation project options.

10 **SECTION 9150. Nonstatutory provisions; Transportation.**

11 (1) ADVISORY COMMITTEE.

12 (a) The department of transportation, in consultation with the department of
13 natural resources, shall appoint a technical advisory committee under sections 15.04
14 (1) (c) and 227.13 of the statutes to make recommendations to the department of
15 transportation on the factors to be considered, and the methodology to be used, in
16 preparing evaluations required under section 85.021 (2) (a) of the statutes, as created
17 by this act. These evaluations shall take into consideration all of the factors specified
18 in section 85.021 (2) (b) of the statutes, as created by this act.

19 (b) The technical advisory council shall make recommendations to the
20 department of transportation on setting a monetary value for greenhouse gas
21 emissions and energy use, based on factors such as social costs, market rates for
22 carbon credits, and energy costs.

23 (2) 2030 PLAN. If the department of transportation completes its final 2030 plan,
24 as defined in section 85.021 (1) (e) of the statutes, as created by this act, prior to the
25 effective date of this subsection, the department shall revise the final 2030 plan to

1 incorporate the requirement specified in section 85.021 (3) of the statutes, as created
2 by this act.

3 (3) RULES RELATING TO TRANSPORTATION PROJECTS. The department of
4 transportation shall submit in proposed form the rules required under section 85.021
5 (4) of the statutes, as created by this act, to the legislative council staff under section
6 227.15 (1) of the statutes no later than the first day of the 18th month beginning after
7 the effective date of this subsection.

8 **SECTION 9350. Initial applicability; Transportation.**

9 (1) The treatment of section 85.021 (2) (a) and (b) of the statutes first applies
10 to environmental assessments and environmental impact statements commenced on
11 the effective date of this subsection.

12 (END)

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2747/P2ins
ARG:.....

1 **INSERT 2-18:**

2 (n. 4) Beginning with environmental assessments and environmental impact
3 statements commenced on the first day of the 24th month beginning after the
4 effective date of this paragraph [LRB inserts date], if

Gary, Aaron

From: Stolzenberg, John
Sent: Thursday, November 05, 2009 8:37 AM
To: Gary, Aaron
Cc: Lovell, David; Konopacki, Larry; Tradewell, Becky
Subject: Redraft of LRB-2747/P2 (# 36)

Attachments: no36_nov04

Aaron,

We're making our final pass through the bill drafts for the Climate Change Drafting Group.

Here are some suggested changes we have in one of the bills you drafted for the group, LRB-2747/P2 (# 36).



no36_nov04.doc
(26 KB)

Let me know if you have any questions on these changes.

John

John Stolzenberg
Legislative Council
266-2988

CLIMATE CHANGE DRAFTING INSTRUCTIONS

Date: 11/4/09

Policy Name: Carbon-audited transportation investment

Item number and page in report: #36, p. 147

Request: Redraft of LRB-2747/P2

LC Contact: John Stolzenberg

State agency: DOT

Instructions: Amend the draft as follows:

- I. Page 2, lines 9 to 11: substitute for this definition of "greenhouse gas" that "greenhouse gas" has the meaning given in s. 299.03 (1) (d)?
- II. Page 4, lines 1 to 8: check to ensure sub. (3) is consistent with and does not conflict with the transportation planning requirements in LRB-3772 (# 37.5) that are applicable to DOT.
- III. Page 4, line 22: substitute "committee" for "council".

Gary, Aaron

From: Gary, Aaron
Sent: Thursday, November 05, 2009 3:47 PM
To: Stolzenberg, John
Cc: Lovell, David; Konopacki, Larry; Tradewell, Becky
Subject: RE: Redraft of LRB-2747/P2 (# 36)

John,

I made changes I and III in the attached document. Regarding item II, I don't believe there is any direct conflict or inconsistency but there seems to be some overlap. LRB-3772 has been in editing for a few days and I'm hoping you'll have it yet this week. When you receive it, you may want to set LRB-2747 and LRB-3772 side-by-side and determine whether the overlap on long-range planning should be pared down. For now, I haven't made any changes related to item II in the attached memo.

Thanks. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

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<< File: no36_nov04 >>

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John

John Stolzenberg
Legislative Council
266-2988



State of Wisconsin
2009 - 2010 LEGISLATURE

Wanted
by 11/9

LRB-2747/P3

ARG:kjfjf

RMR JLD

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

X Regen

- 1 AN ACT *to create* 85.021 of the statutes; **relating to:** environmental evaluations
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****NOTE: Section 299.03 is created in LRB-2389.

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(e) "2030 plan" means the department's statewide long-range multimodal transportation plan for the 20-year period ending in 2030.

(2) (a) Beginning with environmental assessments and environmental impact statements commenced on the first day of the 24th month beginning after the

1 effective date of this paragraph [LRB inserts date], if the department prepares an
2 environmental assessment or environmental impact statement for a transportation
3 project, the environmental assessment or environmental impact statement shall
4 include an evaluation of all of the following:

5 1. The greenhouse gas emissions and energy use that will result from the
6 transportation project, over the life cycle of the project.

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8 transportation project under subd. 1. is being considered, the greenhouse gas
9 emissions and energy use that will result from each alternative project, over the life
10 cycle of the alternative project.

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12 the following relating to the project:

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(END)



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-2747/P3
ARG:kjf&jld:md

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SECTION 1

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9 (END)